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Before the
Federal Communications Commission
Washington, D.C. 20554

DISPATCHED

PR Docket No. 93-39

In the Matter of

Amendment of Parts 80, 87 and
94 of the Commission's Rules
Governing the Private Radio
Services.

NOTICE OF PROPOSED RULE MAKING

Adopted: February 23, 1993; Released: March 25, 1993

Comments Due: May 14, 1993

Reply Comments Due: June 1, 1993

By the Commission:

I. INTRODUCTION

1. This *Notice of Proposed Rule Making (Notice)* proposes to amend 47 C.F.R. Parts 80, 87 and 94 to relax or eliminate certain rules that impose an unnecessary regulatory burden.

II. DISCUSSION

2. First, Sections 80.25(a) and 87.27 of the Commission's Rules, 47 C.F.R. §§ 80.25(a) and 87.27, provide that licenses for stations in the maritime and aviation services respectively will normally be issued for a term of five years from the date of original issuance, major modification or renewal. Section 307(c) of the Communications Act of 1934 (Communications Act), 47 U.S.C. § 307(c), however, authorizes a ten-year term for such licenses. No regulatory purpose is served by restricting ship and aircraft station licenses to a five year term. Further, the requirement imposes an unnecessary burden both on the licensees, who must prepare and file the application form (there is a \$35 application fee), and on the Commission, which must process the approximately 125,000 ship station and 40,000 aircraft station license applications it receives each year. Extending the license term would return approximately \$2,900,000 per year to the economy. Accordingly, we propose to modify Sections 80.25 and 87.27 to provide a ten-year license term for ship and aircraft station licenses.

3. Second, Section 94.85 of the Commission's Rules, 47 C.F.R. § 94.85, requires that licensees in the Private Operational Fixed Microwave Service perform specified measurements to ensure that their transmitters are maintained within the frequency tolerances required by Section 94.67, 47 C.F.R. § 94.67. The records specified in Section 94.85,

however, are not currently used by the Commission. Licensees must comply with our frequency tolerance rules at all times, so a one-time measurement serves little purpose. There does not appear to be a need, therefore, for a rule that requires licensees to follow a predesignated set of steps to prove compliance. Prior to the establishment in 1975 of Part 94,¹ operational-fixed radio facilities as well as private land mobile services were governed by Parts 89, 91 and 93 of the Commission's Rules. A year later, the Commission eliminated the required annual measurement of transmitter power, frequency and modulation for services governed by Parts 89, 91 and 93 (now consolidated in Part 90).² Part 94 operations were inadvertently omitted from consideration at that time, which caused an unwarranted disparity in regulating these private radio services. Consequently, we propose to rectify that oversight by eliminating the procedures outlined in Section 94.85.

4. Finally, Sections 94.113(a), (b), (d), (e) (f) and (g) of the Commission's Rules, 47 C.F.R. §§ 94.113 (a), (b), (d), (e), (f), and (g), require that licensees in the Private Operational Fixed Microwave Service maintain numerous records on station maintenance, including transmitter measurements and antenna inspections. Because licensees are required to maintain their systems in conformance with our rules, it is unnecessary to require specifically that they retain maintenance records. The purpose of retaining such records is to provide evidence of conformance with equipment specifications. If a station fails Commission inspection, or causes interference due to technical deficiencies, however, past compliance does not rectify current violation of the Commission's Rules. Failure to meet the Commission's technical standards, whether efforts have been made to do so or not, subjects a licensee to consequences such as the imposition of a monetary forfeiture. As noted above, Part 94 operations were inadvertently omitted from consideration when similar rules applicable to private land mobile services governed by Parts 89, 91 and 93 (now consolidated into Part 90) of the Commission's Rules were eliminated. We propose to remedy that oversight by eliminating the unnecessary and burdensome obligations imposed by Sections 94.113 (a), (b), (d), (e), (f), and (g).

III. PROCEDURAL MATTERS

5. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.206(a).

6. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments on or before **May 14, 1993**, and reply comments on or before **June 1, 1993**. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular busi-

¹ *Report and Order*, 40 Fed. Reg. 20928 (1975).

² *Report and Order*, Docket No. 20665, 60 FCC 2d 591 (1976).

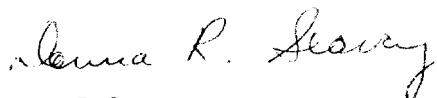
ness hours in the Reference Center of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

7. An Initial Regulatory Flexibility Analysis is contained in the Appendix to this *Notice*.

8. Authority for issuance of this *Notice* is contained in Sections 4(i), 303(r) and 307(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§4(i), 303(r) and 307(c).

9. For further information regarding this *Notice*, contact Marc S. Martin, Private Radio Bureau, Special Services Division, Aviation & Marine Branch, telephone (202) 632-7175, mail stop 1700C2.

FEDERAL COMMUNICATIONS COMMISSION



Donna R. Searcy
Secretary

APPENDIX A

INITIAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals contained in this *Notice*. We request written public comment on the IRFA, which follows. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines provided in paragraph, *supra*. The Secretary shall send a copy of this *Notice*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601-612 (1981).

A. Reason for Action

2. The Commission is proposing rules affecting certain private radio services in order to eliminate a substantial burden on the public, reduce administrative costs and to improve government efficiency.

B. Objectives

3. We seek to reexamine the requirements of certain private radio service rules in order to reduce unnecessary burdens on the industry and administrative costs to the Commission and thereby increase efficiency in the affected private radio services and within the Commission.

C. Legal Basis

4. The proposed action is authorized under Sections 4(i), 303(r) and 307(c) of the Communications Act, 47 U.S.C. §§ 154 (i), 303(r) and 307(c).

D. Reporting, Recordkeeping and Other Compliance Requirements

5. License terms in the aviation and marine radio services would be extended from five years to ten years. Private operational fixed microwave service licensees would have unnecessary reporting requirements eliminated.

E. Federal Rules Which Overlap, Duplicate or Conflict with These Rules

6. None.

F. Description, Potential Impact, and Small Entities Involved

7. The proposals would eliminate reporting requirements for private operational fixed microwave service licensees and extend the license terms for ship and aircraft station licensees. Consequently, the proposals would remove regulatory burdens on small businesses and, in the aviation and marine context, return approximately \$ 2,900,000 to the economy. Further, the proposals would reduce administrative burdens associated with administering the affected private radio services.

G. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives

8. None.

APPENDIX B

Proposed Rules

Part 80 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Part 80 - Stations in the maritime services

1. The authority citation for Part 80 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.25 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c), adding a new paragraph (a), and revising newly redesignated paragraph (b) to read as follows:

§ 80.25 License term.

(a) Licenses for ship stations in the maritime services will normally be issued for a term of ten years from the date of original issuance, major modification, or renewal.

(b) Licenses other than ship stations in the maritime services will normally be issued for a term of five years from the date of original issuance, major modification, or renewal.

* * * * *

Part 87 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Part 87 - Aviation Services

1. The authority citation for Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-156, 301-609.

2. Section 87.27 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c), adding a new paragraph (a), and revising newly redesignated paragraph (b) to read as follows:

§ 87.27 License term.

(a) Licenses for aircraft stations will normally be issued for a term of ten years from the date of original issuance, major modification or renewal.

(b) Licenses other than aircraft stations in the aviation services will normally be issued for a term of five years from the date of original issuance, major modification, or renewal.

* * * * *

Part 94 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Part 94 - Private operational-fixed microwave service

1. The authority citation for Part 94 is revised to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 94.85 is removed in its entirety.

3. Section 94.113 is amended by removing the introductory paragraph, removing paragraphs (a), (d), (e), (f), and (g), removing and reserving paragraph (b), redesignating paragraph (c) as paragraph (a) and revising newly redesignated paragraph (a) introductory text to read as follows:

§ 94.113 Station records.

(a) When a station in this service has an antenna structure which is required to be illuminated, appropriate entries in its station records (logs) shall be made as follows:

* * * * *

(b) [Reserved]